

PT 01-64

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**SHOREWOOD CHURCH
OF G-D
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 00-PT-0082
(00-99-0056)
P.I.N: 05-06-15-107-009**

**RECOMMENDATION FOR DISPOSITION
PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

APPEARANCES: Mr. Andrew Boyer of Boyer & Nash on behalf of the Shorewood Church of G-D. (hereinafter the "applicant").

SYNOPSIS: This matter comes to be considered pursuant to applicant's timely motion for summary judgment and raises the limited issue of whether real estate identified by Will County Parcel Index Number 05-06-15-107-009 (hereinafter the "subject property") was "used as part of a use for which an exemption is provided by [the Property Tax] Code,"¹ as required by 35 ILCS 200/15-125, during the 2000 assessment year. The underlying controversies arise as follows:

Applicant filed an Application for Property Tax Exemption with the Will County Board of Review on February 22, 2000. The Board reviewed the application and

1. The Property Tax Code is found at 35 ILCS 200/1-1, *et seq.*

recommended to the Illinois Department Of Revenue (hereinafter the “Department”) that the requested exemption be granted. The Department then issued its determination in this matter, finding the subject property is not in exempt use, on October 19, 2000. Applicant filed a timely appeal to this denial and later filed this motion for summary judgment. After carefully reviewing that motion and its supporting documentation, I recommend that the Department’s initial determination in this matter be reversed.

FINDINGS OF FACT:

1. The Department’s jurisdiction over this matter and its position therein are established by its initial determination in this case, issued by the Office of Local Government Services on October 19, 2000. Administrative Notice.
2. The Department’s position in this case is that the subject property is not in exempt use. *Id.*
3. The Application for Property Tax Exemption, filed with the Department on February 22, 2000, indicates that the subject property consists of an unimproved lot located at the intersection of Route 59 and School Road in Shorewood, IL.
4. The subject property is located directly adjacent to applicant’s main church facility, which is exempt from real estate taxation pursuant to the Department’s determination in Docket No. 83-99-150. Applicant Motion Ex. No. 1; Administrative Notice.
5. A limited warranty deed contained within applicant’s original submission to the Department reveals that applicant, a Christian church, obtained ownership of the subject property on December 21, 1999. Applicant Motion Ex. No. 1.

6. Applicant used the subject property as congregational parking for its main church facility throughout 2000. *Id.*

CONCLUSIONS OF LAW:

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c). There are no contested facts in this case. Therefore, the only remaining source of controversy herein is a legal question, that being whether the subject property was used in a manner that would qualify it for exemption from 2000 real estate taxes under the pertinent statutes.

Those statutes are found in Sections 15-40 and 15-125 of the Property Tax Code 35 ILCS 200/1-1 *et seq.* Section 15-40 provides, in relevant part, for exemption of the following:

All property used exclusively² for religious purposes,³ or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise use with a view to a profit ...[.]

35 ILCS 200/15-40.

Section 200/15-125 provides that:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption, are exempt [from real estate taxation].

2. The word "exclusively," when used in Sections 200/15-40 and other exemption statutes means "the primary purpose for which property is used and not any secondary or incidental purpose." Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

3. As applied to the uses of property, "religious purposes" refer to those uses by religious societies or persons as stated places for public worship, Sunday schools and religious instruction. People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

35 ILCS 200/15-125.

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Moreover, it is applicant that bears the burden of proving, by clear and convincing evidence, that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

Here, the relevant statute provides that parking areas, such as the one located on the subject property, can be exempted from real estate taxation if they are: (1) owned by a school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption set forth in the applicable section(s) of the Code; (2) not leased or otherwise used with a view to profit; and (3) used as part of a use for which an exemption is provided in the Code. 35 ILCS 200/15-125. Only the last requirement is at issue herein, as the instant denial was predicated solely on lack of exempt use.

The documentation applicant submitted in support of its motion for summary judgment establishes that applicant used the subject property as a parking area for its tax-exempt main church complex throughout 2000. Therefore, the Department's determination in this matter, which appears to have been based on an initial lack of information which applicant cured via the aforementioned documentation, should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Will County Parcel Index Number 05-06-15-107-009 be exempt from 2000 real estate taxes under Sections 15-40 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

10/10/01
Date

Alan I. Marcus
Administrative Law Judge